

## Judge Marvin Katz

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Judge Katz was born on November 22, 1930 in Philadelphia, Pennsylvania. Judge Katz received a B.A. from the University of Pennsylvania in 1951 and an LL.B. from Yale University in 1954. Except during 1959 and 1960 when he served as law clerk to Judge Francis X. McClanaghan of the Court of Common Pleas of Philadelphia County, Judge Katz was in private practice in Philadelphia, Pennsylvania from 1954 to 1977. From 1977 to 1981, Judge Katz served as Assistant to the Commissioner of the Internal Revenue Service. After returning to private practice in Philadelphia in 1981, Judge Katz was appointed to the United States District Court for the Eastern District of Pennsylvania on August 6, 1983.

### **PRELIMINARY GENERAL MATTERS**

#### ***1. Correspondence With the Court***

Judge Katz permits correspondence from counsel in almost all circumstances involving discovery, scheduling, and requests for extensions of time.

#### ***2. Communications With Law Clerks***

Judge Katz permits counsel to speak with his law clerks for routine matters such as scheduling responses for motions.

#### ***3. Telephone Conferences***

Judge Katz does not have any special policy or preference with respect to telephone conferences, and he permits telephone conferences in appropriate circumstances.

#### ***4. Oral Arguments and Evidentiary Hearings***

Judge Katz does not set aside certain days or times for oral arguments or evidentiary hearings.

#### ***5. Pro Hac Vice Admissions***

Judge Katz prefers that a formal motion for *pro hac vice* admission be filed prior to the day the attorney to be admitted first appears in Court.

### **CIVIL CASES Pretrial Procedure**

#### ***1. Pretrial Conferences***

Judge Katz normally schedules only one pretrial conference for each case. He will generally schedule a pretrial conference at the request of counsel for a party. Judge Katz uses Rule 16 of the Federal Rules of Civil Procedures as the agenda for a typical pretrial conference. A copy of the standard form of Order entered by Judge Katz after the pretrial conference is attached.

## **Continuances and Extensions**

### ***1. General Policy***

The facts and circumstances of each case govern how Judge Katz schedules briefing, oral arguments, evidentiary hearings, and discovery deadlines and whether he grants or denies requests for continuances or extensions of time.

### ***2. Requests for Extensions and Continuances***

Judge Katz does not have any particular requirement as to how far in advance of a due date counsel should submit a request for an extension of time. He does not have a preferred method by which counsel must request a continuance or an extension.

## **General Motion Practice**

### ***1. Oral Argument on Motions***

Judge Katz has no general policy regarding oral argument on motions. Counsel should request oral argument if they consider it necessary.

### ***2. Reply and Surreply Briefs***

Counsel may not submit reply briefs or surreply briefs without permission for Judge Katz.

### ***3. Chambers Copies of Motion Papers***

Judge Katz is agreeable to receiving courtesy copies of motion papers in chambers, but submission of such copies is not required.

## **Discovery Matters**

### ***1. Length of Discovery Period and Extensions***

Judge Katz has no standard policy on the length of time usually permitted for discovery.

### ***2. Discovery Conferences and Dispute Resolution***

Judge Katz normally does not hold discovery conferences other than the usual Rule 16 conference. Depending on the circumstances, he will permit telephone conferences to resolve discovery disputes that arise during depositions.

### ***3. Confidentiality Agreements***

Judge Katz does not have any established policy regarding confidentiality agreements. He considers these individually.

#### ***4. Expert Witnesses***

Judge Katz does not have any standard policy requiring preparation of written reports by experts or permitting depositions of expert witnesses. He also does not have any special policy as to when expert witnesses must be identified, except as required by the Federal Rules of Civil Procedure.

### **Settlement**

#### ***1. General Approach to Settlement and Non-jury Cases***

Judge Katz's approach to Court involvement in settlement negotiations depends on the circumstances of each case. He refers negotiations in a non-jury matter to a Magistrate Judge, and he will not personally participate in such negotiations.

#### ***2. Referral of Settlement Negotiations to Another District Court Judge***

Occasionally, in non-jury matters, Judge Katz will refer settlement negotiations to another District Court Judge.

### **Arbitration**

#### ***1. General Approach to Arbitration Cases***

Judge Katz does not have any special practices or procedures for arbitration cases, either before or after a trial *de novo* is demanded.

#### ***2. Scheduling of Trial De Novo From Arbitration***

Judge Katz issues a prompt trial listing when a trial *de novo* is demanded after arbitration.

### **Proposed Final Pretrial Memoranda**

#### ***1. Required Form of Pretrial Memoranda***

Judge Katz does not have any requirements for proposed final pretrial memoranda other than those set forth in Local Civil Rule 16.

#### ***2. Common Deficiencies in Pretrial Memoranda***

Judge Katz has not noted significant deficiencies in the proposed final pretrial memoranda submitted to him.

### **Injunctions**

#### ***1. Scheduling and Expedited Discovery***

Judge Katz promptly schedules preliminary and permanent injunction hearings. Whether he grants expedited discovery in an injunctive matter depends on the facts and circumstances of the particular case.

## ***2. Proposed Findings of Fact and Conclusions of Law***

Whether proposed findings of fact and conclusions of law are necessary depends on the facts and circumstances of the particular case.

## **Trial Procedure**

### ***1. Scheduling of Cases***

Judge Katz places cases in the trial pool.

### ***2. Conflicts of Counsel***

Counsel should immediately notify Judge Katz's Deputy Clerk when any scheduling conflicts arise.

### ***3. Cases Involving Out-of-Town Parties or Witnesses***

Judge Katz has no special policy regarding the scheduling of trials involving out-of-town parties or witnesses.

### ***4. Notetaking by Jurors***

Judge Katz has no special policy on notetaking by jurors.

### ***5. Trial Briefs***

Judge Katz encourages the submission of trial briefs.

### ***6. Voir Dire***

Judge Katz usually permits counsel to conduct all *voir dire*. His Deputy Clerk is normally present. Judge Katz expects *voir dire* to be conducted expeditiously, but he does not have a specific time limit.

### ***7. Side Bars***

Judge Katz discourages side-bar conferences.

### ***8. In Limine Motions***

If necessary, *in limine* motions should be submitted with the pretrial memoranda, but Judge Katz prefers that counsel cover these matters in trial briefs.

### ***9. Examination of Witnesses Out of Sequence***

Judge Katz will permit counsel to take witnesses out of turn for the convenience of the witnesses.

### ***10. Opening Statements and Summations***

Judge Katz does not place any time limit on counsel's opening statement or summation.

### ***11. Examination of Witnesses or Argument by More Than One Attorney***

Judge Katz will usually permit more than one attorney for a party to examine different witnesses or argue different points.

### ***12. Examination of Witnesses Beyond Redirect and Recross***

Permission to examine witnesses beyond redirect and recross depends on the particular facts and circumstances of the case.

### ***13. Videotaped Testimony***

Judge Katz has no general policy regarding the use of the videotaped testimony.

### ***14. Reading of Material Into the Record***

Judge Katz has no general policy regarding the reading of pleadings or discovery materials into the record.

### ***15. Preparation of Exhibits***

Judge Katz requires that exhibits be pre-marked and pre-exchanged. Counsel should provide one set of marked exhibits to Judge Katz.

### ***16. Offering Exhibits Into Evidence***

Judge Katz has no special policy as to when counsel should offer exhibits into evidence, and he leaves this to counsel's discretion.

### ***17. Motions for Judgment as a Matter of Law and Motions for Judgment on Partial Findings***

Judge Katz prefers that motions for judgment as a matter of law (and motions for judgment on partial findings in non-jury cases) be made in writing. He normally does not conduct oral argument on such motions.

### ***18. Proposed Jury Instructions and Verdict Forms***

Judge Katz prefers that proposed jury instructions be submitted only for difficult or novel points of law. He permits and will consider proposed supplemental jury instructions. Whether Judge Katz conducts a conference on proposed jury instructions depends on the facts and circumstances of the case.

### ***19. Proposed Findings of Fact and Conclusions of Law***

Judge Katz prefers that any proposed findings of fact and conclusions of law be submitted with the proposed final pretrial memoranda.

## **Jury Deliberations**

### ***1. Written Jury Instructions***

Judge Katz has rarely given the jury a copy of his instructions.

### ***2. Exhibits in the Jury Room***

Judge Katz has no particular policy or procedure regarding which, if any, exhibits go out with the jury.

### ***3. Handling of Jury Requests to Reach Back Testimony or Replay Tapes***

Judge Katz normally grants juror's requests to read back testimony or replay tapes.

### ***4. Availability of Counsel During Jury Deliberation***

The circumstances of the case will dictate whether Judge Katz requires counsel to remain in the courthouse or permits them to return to their offices during jury deliberations.

### ***5. Taking the Verdict and Special Interrogatories***

It is Judge Katz's usual practice to take a special verdict. Judge Katz submits special interrogatories to the jury depending on the circumstances and complexity of the case.

### ***6. Polling the Jury***

Judge Katz will poll the jury if so requested.

### ***7. Interviewing the Jury***

Judge Katz prefers that jurors not be interviewed after rendering a verdict.

## **CRIMINAL CASES**

### ***1. Approach to Oral Argument and Motions***

Judge Katz's approach to oral argument or motions in criminal cases depends on the circumstances of the particular case.

### ***2. Pretrial Conferences***

Depending on the circumstances of the particular case, Judge Katz will hold a pretrial conference in a criminal case.

### ***3. Voir Dire***

Judge Katz conducts all *voir dire* in criminal cases. He encourages proposed *voir dire* questions from counsel.

### ***4. Sentencing Memoranda***

The Government and the defendant may submit sentencing memoranda to Judge Katz.

## **OTHER GENERAL MATTERS**

Judge Katz does not desire to receive copies of the appellate briefs if a decision rendered by him is appealed.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>@, <b>Plaintiff,</b></p> <p style="text-align: center;"><b>v.</b></p> <p>@, <b>Defendant.</b></p>	<p style="text-align: center;"><b>CIVIL ACTION NO. 04-@</b></p>
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**ORDER**

**AND NOW**, this @ day of @, 200@, it is **ORDERED** as follows:

1.     SERVICE. **COUNSEL FOR PLAINTIFF SHALL SERVE A COPY OF THIS ORDER UPON COUNSEL FOR THE DEFENDANT AS SOON AS THE IDENTITY OF COUNSEL IS LEARNED.** Service of the Complaint shall be completed so as not to delay the implementation of this Order.

2.     PRETRIAL CONFERENCE. A pretrial conference in the above captioned case will be held on @, **200@**, at 9:00 A.M., before JUDGE MARVIN KATZ, in Chambers, Room 13613, U.S. Courthouse, 601 Market Street, Philadelphia, PA.

The conference shall be attended by trial counsel prepared and authorized to discuss all legal issues, trial matters and settlement.

In order to have a useful pretrial conference, as well as just, speedy, and inexpensive determination of the action, plaintiff(s) and defendant(s) shall exchange on a mutually agreed time and date at least five days before the conference:

- (a)     Copies of all material documents under their control;
- (b)     The names and addresses of all persons believed to have material information and a summary of that information;

(c) Statements informing the opposing party of the material information possessed by persons under its control, such as the individual parties and their managing agents;

(d) Witness statements, subject to an articulated, specific claim under the work product and privilege rules, containing a description of the subject matter of the claim. Counsel are encouraged to agree on joint telephone interviews of significant witnesses before the pretrial conference;

(e) Expert reports. With respect to any witnesses expected to give expert testimony at trial the following shall be served:

- i. written report prepared and signed by the expert containing a complete statement of all opinions to be expressed and the basis and reasons therefore;
- ii. the data or other information considered by the witness in forming the opinions;
- iii. any exhibits to be used as support for the opinions;
- iv. the qualifications of the witness, including a list of publications authored by the witness within the preceding ten years;
- v. the compensation arranged for the study and testimony; and
- vi. a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

3. SETTLEMENT. Representatives of the parties with authority to bind them in settlement shall attend the pretrial conference. The parties shall be reasonably available by telephone in order to discuss possible settlement of the dispute.

4. DISCOVERY CUTOFF. Discovery shall be completed by @, 200@. Any amendments to the pleadings, joinder of additional parties, or motions shall be undertaken and



concluded so as not to delay the completion of discovery by the specified date.

5. SUMMARY JUDGMENT MOTIONS AND MOTIONS IN LIMINE. Any motions for summary judgment or motions in limine shall be filed within ten days, including weekends and holidays, from the end of the discovery period.

Upon any motion for summary judgment pursuant to Fed. R Civ.P. 56, there shall be filed with the motion a separate, short and concise statement of the material facts, in numbered paragraphs, as to which the moving party contends there is no genuine issue to be tried.

The papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts, responding to the numbered paragraphs set forth in the statement required in the foregoing paragraph, as to which it is contended that there exists a genuine issue to be tried.

Statements of material facts in support, or in opposition to, a motion shall include references to the parts of the record that support the statements.

All material facts set forth in the statement required to be served by the moving party may be taken by the court as admitted unless controverted by the opposing party.

6. PLAINTIFF'S PRETRIAL MEMORANDUM. The plaintiff's pretrial memorandum under Local Rule 16.1(c) shall be filed within ten days, including weekends and holidays, of the end of the discovery period. The plaintiff shall file one copy of record and deliver two courtesy copies to chambers.

7. DEFENDANT'S PRETRIAL MEMORANDUM. The defendant's pretrial memorandum under Local Rule 16.1(c) shall be filed within twenty days, including weekends and holidays, of the end of the discovery period. The defendant shall file one copy of record and deliver

two courtesy copies to chambers.

8. TRIAL BRIEFS. The parties shall file one copy of record and submit two courtesy copies of trial briefs covering legal issues likely to arise at trial. Trial briefs shall be filed with the respective pretrial memoranda.

9. POINTS FOR CHARGE AND JOINT JURY QUESTIONS. Parties in jury trials shall file one copy of record and submit three courtesy copies of proposed, numbered points for charge, including authorities with precise, pinpoint page citations. The parties shall file these papers with their respective pretrial memoranda. In addition, counsel shall submit a jointly prepared proposed verdict sheet. To the extent counsel cannot agree as to content, counsel shall submit alternative drafts. The submission shall not be a waiver of contentions that there is insufficient evidence to submit such issues to the jury. In drafting the jury questions for the proposed verdict sheet, counsel are to bear in mind that the key is simplicity in wording and organization so that the final draft contains the fewest number of questions necessary for a verdict. The parties shall file one copy of record and two courtesy copies of the jointly prepared proposed verdict sheet within twenty days, including weekends and holidays, of the end of the discovery period.

10. FINDINGS OF FACT AND CONCLUSIONS OF LAW. Parties in nonjury trials shall file one copy of record and submit three courtesy copies of proposed findings of fact and conclusions of law, including authorities with precise, pinpoint page citations. The parties shall file these papers with their respective pretrial memoranda.

11. COMPUTER DISKS. In addition to their written submissions, if possible, the parties are requested to submit their proposed points for charge or proposed findings of fact and conclusions of law on a WordPerfect compatible computer disk (3½" or 5¼").

12. UNCONTESTED FACTS. The parties shall meet to prepare a complete and

comprehensive stipulation of uncontested facts in accordance with the procedure set forth in Local Rule of Civil Procedure 16.1(d)(2)(b)(2). The parties shall file one copy of record and submit three courtesy copies of the jointly prepared stipulation of uncontested facts within twenty days, including weekends and holidays, of the end of the discovery period.

13. TRIAL EXHIBITS. All trial exhibits shall be marked and exchanged by the time discovery is to be completed.

14. TRIAL POOL. The case shall be placed in the trial pool on @, **200**@, to be called for trial upon 24 hours telephone notice. Any and all motions should be filed so as not to delay the trial.

15. TRIAL PROCEDURE. The following should guide counsel at trial:

- a) Counsel are expected to select a jury promptly without arguing the case to the panel.
- b) In general, the court discourages side bar conferences because they are usually unnecessary. If counsel feel that a side bar is absolutely necessary, they shall state the side bar general purpose so that the court may decide whether one is in fact necessary.
- c) It is not necessary to ask permission to approach a witness.
- d) Counsel are expected to have their witnesses available, either in the courtroom or in the witness room located outside the courtroom. Please instruct your witnesses to speak slowly, distinctly and loud enough for all to hear. Examinations should be limited to direct, cross and re-direct unless there are exceptional circumstances.
- e) Counsel should use the podium for opening and closing statements.
- f) Counsel should move all exhibits in a clear voice, identifying each by name and/or number. If there is no objection, exhibits are automatically admitted.
- g) Counsel are expected to edit trial depositions to remove superfluous material.

- h) Counsel shall submit Rule 50 motions in writing.
- i) At the close of trial, exhibits are released to the custody of the party who offered them and should be picked up within 24 hours.

**BY THE COURT:**

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**MARVIN KATZ, S.J.**